

Response Under 37 CFR 1.116
Expedited Procedure
Examining Group 2629

Remarks

Claims 1-11, 14, and 16-25 are rejected as being unpatentable over Persidsky in view of Schiller and Johner.

Claims 12, 13 and 15 are rejected as being unpatentable over Persidsky in view of Schiller and further in view of Johner and in further view of Lewis.

The Examiner is respectfully asked to reconsider the rejection of the claims for the reasons set forth below.

Applicant respectfully does not concur with the Examiner's opinion regarding the obviousness of claim 1. According to the Examiner, the subject matter of claim 1 would be obvious over a combination of Persidsky, Schiller, and Johner. Applicant agrees with the Examiner that Persidsky fails to teach an absolute determination of the pen position. Applicant further agrees that the feature of an area coding designed as a marking on the writing surface cannot be derived from a combination of Persidsky and Schiller.

According to the Examiner, however, the latter feature could be derived from Johner. In this regard, Applicant respectfully does not share the Examiner's point of view. Johner discloses an optoelectronic reading pen for scanning optically encoded information. According to Johner's Abstract, the information may be a bar or line code. Johner fails to teach that the bar or line code is an area coding, i.e., a coding in which the lateral position of the code is encoded.

Thus, if a person of ordinary skill in the art would have combined the features of the pen known from Johner with a writing instrument having the combined features of Persidsky and Schiller, he would derive a pen which is able to determine its position with

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the mechanism disclosed in Schiller, and which has the additional ability to read a bar code.

This, however, is not obvious over the subject matter of claim 1 of the present invention. Rather, claim 1 defines that the pen position is derived from decoding the area coding.

The same also holds true for independent claims 17 and 21 defining corresponding features, and also all dependent claims.

Applicant respectfully submits that there seems no need for further restriction of the claims, even in view of the newly cited art. Consequently, the claims are un-amended in this submission.

Applicant respectfully believes that the subject matter of claim 1 is not obvious over Persidsky in view of Schiller and further in view of Johner. Applicant respectfully urges that the claims, as presently presented in this Amendment After Final Action (un-amended from the submission of 08/24/2006), should be allowable.

Applicant's attorney expresses his thanks in advance for the opportunity to discuss the arguments set forth in the present submission at the Examiner's earliest possible convenience, and looks forward to having that discussion as soon as possible. This submission is being faxed to both (571) 273 8300 and the Examiner's personal fax number to expedite discussions.

US Patent Application 09/720,463 Gens (H)99DGE1538USP
Amendment After Final Action in Response to Final Office Action of 11/08/2006 submitted by fax with
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Wherefore, further consideration and allowance of the claims of this application is respectfully requested.

Respectfully submitted,



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CERTIFICATE OF FAX TRANSMISSION

I hereby certify under 37 CFR §1.8 that this correspondence is being submitted to the Mail Stop Amendment with Fee, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 by facsimile transmission on 02/01/2007, fax number (571) 273-8300.



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